

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 05-CV-00329-GKF-SAJ
)	
TYSON FOODS, INC., et al.,)	
)	
Defendants.)	

**SUPPLEMENTAL OBJECTIONS AND RESPONSES OF STATE OF OKLAHOMA TO
SEPARATE DEFENDANT COBB-VANTRESS, INC.'S SECOND SET OF
INTERROGATORIES PROPOUNDED TO PLAINTIFFS**

COMES NOW, the Plaintiff, the State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA, (hereinafter "the State") and supplements its previous response to Defendant Cobb-Vantress, Inc's Second Set of Interrogatories in accordance with the Court's Order of February 26, 2007 (Dkt #1063). The State incorporates its previous responses and objections to these interrogatories as if fully stated herein. Further, the State reserves the right to supplement its responses as additional responsive information is identified.



have contaminated the sediments in the Illinois River Watershed and increased nutrient concentrations have affected community structures.

5. Existing data and new data (produced to Defendants on February 1, 3, and 8 and in subsequent productions) demonstrate that land in the Oklahoma portion of the Illinois River Watershed has been injured in such magnitude sufficient to support a claim of damages. Bacteria and nutrients have contaminated the land in the Illinois River Watershed and increased nutrient concentrations have affected contiguous and surface water quality and subsurface groundwater quality.

(c) The State is unable to provide the amount of estimated costs the State believes would be necessary to replace or restore the injured natural resources at this time. The State continues to develop its damages case and will provide Defendants with this information pursuant to the Court's Scheduling Order (Dkt. #1075)

(d) The State will be using established methodologies to arrive at its natural resource damages. Which methodology or methodologies it will ultimately decide to use is work product. The State will disclose this information pursuant to the Court's Scheduling Order when the State provides its expert damages report(s).

The State hereby withdraws its previous Rule 33(d) designation for this interrogatory.

Interrogatory No. 5: Please identify by name or owner, name of operator and address each and every parcel of real property which you contend constitutes a "facility" for purposes of the claims asserted by you under Counts One and Two of the Complaint including those properties where you contend hazardous substances were released or disposed onto or otherwise came to be located (See, Amended Complaint Pa. 70-89).

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 5

The State objects to this interrogatory on the ground that it improperly seeks identification of “each” and “every” items of responsive information, which renders it overly broad and oppressive. It may be impossible to locate “each” and “every” items of responsive information to this interrogatory.

The State objects to this interrogatory to the extent that it seeks attorney client or work product protected material, or information known or opinions held by expert consultants retained or specifically employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). The State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court’s Scheduling Order (Dkt. #1075). The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports.

The State incorporates its previous response and objections to this interrogatory, as if fully stated herein. In lieu of the State’s previous 33(d) designation to this Interrogatory, the State has identified certain representative documents to this request which include, but are not limited to, the following:

1. Grower files located at the Oklahoma Department of Agriculture Food and Forestry produced to the Defendants on June 15, 2006, Bates Nos. OKDA0000001-OKDA0010561 and OKDA0013013-OKDA0021846. Updated grower files will be produced in accordance with the Courts Order of March 26, 2006 at a yet to be scheduled document production at ODAFF.

2. Documents included in the State's February 1, 3, and 8 document production and subsequent productions. See OK-PL4744-OK-PL5863 and OK-PL4333-OK-PL4743.

Discovery is ongoing. The State reserves the right to supplement its response as additional information is identified.

Interrogatory No. 8: Please identify all assessments, studies or evaluations of alleged environmental or health injuries, threats or endangerments which the State has conducted and for which the State will seek to recover costs from the defendants in this lawsuit.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 8

The State objects to this interrogatory on the ground that it improperly seeks identification of "all" items of responsive information, which renders it overly broad and oppressive. It may be impossible to locate "all" items of responsive information to this interrogatory.

The State objects to this interrogatory to the extent that it seeks attorney client or work product protected material, or information known or opinions held by expert consultants retained or specifically employed by the State or by its counsel in anticipation of litigation or preparation for trial. Fed. R. Civ. P. 26(b)(4)(A) and (B). The State will disclose information known or opinions held by expert consultants retained or employed in anticipation of litigation or preparation for trial upon which it intends to rely pursuant to the Court's Scheduling Order (Dkt. #1075) The State and its experts are still collecting data and performing analysis on the data which will be used in their opinions and reports

The State incorporates its previous responses and objections to this interrogatory, as if fully stated herein. Additionally, the State incorporates its previous response and objections to Cobb-Vantress 2nd Set of Interrogatories No. 6, as if fully stated herein. Subject to and without

the very operation of its being a public body the State has afforded public comment on a number of issues and projects relating to this litigation. For example, see the Illinois River/Baron Fork Watershed Restoration Action Strategy (OCC 1999) https://www.deq.state.ok.us/WQDnew/pubs/illinois_river_wras_final.pdf. The State reserves the right to supplement this interrogatory as responsive information is identified.

Interrogatory No.14: Identify any consent, decrees, agreed judicial or administrative orders, or settlement agreements obtained by you during the three years preceding the lawsuit against or with any person or entity relating to their responsibility for the proper management and disposal of wastes to the IRW. With respect to each provide the full name of the person(s) or entity and the date of the settlement agreement, decrees or order and describe the consideration received in each such settlement agreement decree or order.

SUPPLEMENTAL RESPONSE TO INTERROGATORY NO. 14

The following documents have been or will be produced at agency productions. The documents being produced that are responsive to this interrogatory may exceed the three year limitation imposed by this interrogatory because documents were/will be produced as they are kept in the usual course of business. The State will identify at future agency productions documents responsive to this request pursuant to the Court's Order of April 4, 2007 (Dkt # 1118). Pursuant to Fed.R.Civ.P 33(d) the following categories of documents are responsive to this interrogatory:

Oklahoma Department Of Enviromental Quality

1. Legal Division files which contain one or more responsive consent decrees, judicial, administrative orders or settlement agreements were found in Legal Division Boxes 1-7. Included within these files are facilities / respondents which / who are outside the Illinois

River Watershed. This is because the files were pulled as they are kept in the usual course of business and the files are arranged by county, not watershed. See attached list of files by box number with facility / respondent name and case number.

2. The Water Quality Division boxes contain facility permit files. Clip 3 of File 2 of the facility file contains all enforcement orders for a given facility. Water Quality Division Boxes 1-21 contain facility files for public water supplies. Boxes 26-31 contain permit and enforcement files for municipalities. Industrial files are located in Boxes 36-42. The ECLS division contains complaints in Boxes 1-9. See attached list of files by box and facility number for all types of files listed above.
3. Settlement Agreement with Sequoyah Fuels Corporation.
4. Joint Statement of Principles and Actions.

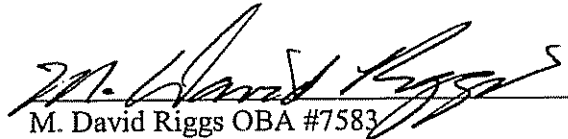
Oklahoma Department Of Agriculture, Food And Forestry

1. Grower files required to be maintained under the Oklahoma Registered Poultry Feeding Operations Act may contain individual notices of violations and enforcement orders in the individual grower's file. These files have already been produced on June 15, 2006, Disc 1, Bates numbers OKDA0000001-OKDA0010561 and OKDA0013013-OKDA0021846. Updated grower, applicator and CAFO files will be produced in accordance with the Court's Order of March 26, 2006 at a yet to be scheduled document production at ODAFF.

With respect to documents previously provided to the Tyson Defendants for inspection at any of the above agencies that were not copied by the Tyson Defendants, the State will work with the Tyson Defendants to get copies of these documents. The State reserves the right to supplement this interrogatory as additional responsive information is identified.

Respectfully Submitted,

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